

MICHIGAN GAMING CONTROL AND REVENUE ACT (EXCERPT)
Initiated Law 1 of 1996

432.204 Michigan gaming control board.

Sec. 4. (1) The Michigan gaming control board is created within the department of treasury. The board shall have the powers and duties specified in this act and all other powers necessary and proper to fully and effectively execute and administer this act for the purpose of licensing, regulating, and enforcing the system of casino gambling established under this act.

(2) The board shall consist of 5 members, not more than 3 of whom shall be members of the same political party, to be appointed by the governor with the advice and consent of the senate, 1 of whom shall be designated by the governor to be chairperson. Each member shall be a resident of this state.

(3) The members shall be appointed for terms of 4 years, except of those who are first appointed, 1 member shall be appointed for a term of 2 years, 2 members shall be appointed for a term of 3 years and 2 members shall be appointed for a term of 4 years. A member's term shall expire on December 31 of the last year of the member's term. In the event of a vacancy on the board, the governor shall appoint in like manner a successor to fill the unexpired term.

(4) Each member of the board shall be reimbursed for all actual and necessary expenses and disbursements incurred in the execution of official duties.

(5) A board member shall not hold any other public office for which he or she shall receive compensation other than necessary travel or other incidental expenses.

(6) A person who is not of good moral character or who has been indicted or charged with, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning a felony or a misdemeanor involving gambling, theft, dishonesty, or fraud under the laws of this state, any other state, or the United States or a local ordinance in any state involving gambling, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state shall not be appointed or remain as a member of the board.

(7) Any member of the board may be removed by the governor for neglect of duty, misfeasance, malfeasance, nonfeasance, or any other just cause.

(8) The governor shall appoint the executive director of the board to serve a 6-year term. After the effective date of the act that added this subsection, the appointment of the executive director shall require the approval of the senate by a record roll call vote. The executive director shall perform any and all duties that the board shall assign him or her. The executive director shall be reimbursed for all actual and necessary expenses incurred by him or her in discharge of his or her official duties. The executive director shall keep records of all proceedings of the board and shall preserve all records, books, documents, and other papers belonging to the board or entrusted to its care. The executive director shall devote his or her full time to the duties of the office and shall not hold any other office or employment. A vacancy in the position of executive director shall be filled as provided in this subsection for a new 6-year term.

(9) The board shall employ personnel as may be necessary to carry out the functions of the board under this act.

(10) A person shall not be appointed to or employed by the board if any of the following circumstances exist:

(a) During the 3 years immediately preceding appointment or employment, the person held any direct or indirect interest in, or any employment by, a person who is licensed to operate a casino under this act or in another jurisdiction, a person who had an application to operate a casino pending before the board or any other jurisdiction, or a casino enterprise. However, the person may be employed by the board if his or her interest in any casino licensee or casino enterprise would not, in the opinion of the board, interfere with the objective discharge of the person's employment obligations. However, a person shall not be employed by the board if his or her interest in the casino licensee or casino enterprise constitutes a controlling interest in that casino licensee or casino enterprise.

(b) The person or his or her spouse, parent, child, child's spouse, sibling, or spouse of a sibling is a member of the board of directors of or a person financially interested in any person licensed as a casino licensee or casino supplier, any person who has an application for a license pending before the board, or a casino enterprise.

(11) Each member of the board, the executive director, and each key employee as determined by the board shall file with the governor a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the member, executive director, and each key employee and any of their spouses affirming that the member, executive director, and key employee are in compliance with subsection (10)(a) and (b) of this act. The financial disclosure statement shall be under oath and shall be filed at the time of employment and annually thereafter.

(12) Each employee of the board shall file with the board a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the employee and his or her spouse. This subsection does not apply to the executive director or a key employee.

(13) A member of the board, executive director, or key employee shall not hold any direct or indirect interest in, be employed by, or enter into a contract for services with an applicant, a person licensed by or registered with the board, or a casino enterprise for a period of 4 years after the date his or her membership on the board terminates.

(14) An employee of the board shall not acquire any direct or indirect interest in, be employed by, or enter into a contract for services with any applicant, person licensed by the board, or casino enterprise for a period of 2 years after the date his or her employment with the board is terminated.

(15) A board member or a person employed by the board shall not represent any person or party other than the state before or against the board for a period of 2 years after the termination of his or her office or employment with the board.

(16) A business entity in which a former board member or employee or agent has an interest, or any partner, officer, or employee of the business entity shall not make any appearance or representation that is prohibited to that former member, employee, or agent. As used in this subsection, "business entity" means a corporation, limited liability company, partnership, limited liability partnership, association, trust, or other form of legal entity.

(17) The board shall have general responsibility for the implementation of this act. The board's duties include, but are not limited to, all of the following:

(a) Deciding in a reasonable period of time all casino license applications. A casino license applicant shall have the burden to establish by clear and convincing evidence their suitability as to integrity, moral character, and reputation; personal and business probity; financial ability and experience; responsibility; and other criteria considered appropriate by the board. The criteria considered appropriate by the board shall not be arbitrary, capricious, or contradictory to the expressed provisions of this act.

(b) To decide in reasonable order all license applications. Except for casino license applicants granted a hearing under section 6(7), any party aggrieved by an action of the board denying, suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, may request a hearing before the board. A request for a hearing shall be made to the board in writing within 21 days after service of notice of the action of the board. Notice of the action of the board shall be served either by personal delivery or by certified mail, postage prepaid, to the aggrieved party. Notice served by certified mail shall be considered complete on the business day following the date of the mailing.

(c) Conducting its public meetings in compliance with the open meetings act, 1976 PA 267, MCL 15.231 to 15.246.

(d) Promulgating the rules as may be necessary to implement, administer, and enforce this act. All rules promulgated under this act shall not be arbitrary, capricious, or contradictory to the expressed provisions of this act. The rules may include, but need not be limited to, rules that do 1 or more of the following:

(i) Govern, restrict, approve, or regulate the casino gaming authorized in this act.

(ii) Promote the safety, security, and integrity of casino gaming authorized in this act.

(iii) License and regulate persons participating in or involved with casino gaming authorized in this act.

(e) Providing for the establishment and collection of all license and registration fees and taxes imposed by this act and the rules promulgated by the board.

(f) Providing for the levy and collection of penalties and fines for the violation of this act and the rules promulgated by the board.

(g) Being present through its inspectors, agents, auditors and the Michigan state police or attorney general at any time in any casino and related casino enterprise for the purpose of certifying the revenue thereof, receiving complaints from the public, and conducting other investigations into the conduct of the gambling games and the maintenance of the equipment as from time to time the board may consider necessary and proper to assure compliance with this act and the rules promulgated by the board and to protect and promote the overall safety, security, and integrity of casino gaming authorized in this act.

(h) Reviewing and ruling upon any complaint by a licensee regarding any investigative procedures of the state which are unnecessarily disruptive of gambling operations. The need to inspect and investigate shall be presumed at all times. A licensee shall establish by clear and convincing evidence that its operations were disrupted, the procedures had no reasonable law enforcement or regulatory purposes, and the procedures were so disruptive as to unreasonably inhibit gambling operations.

(i) Holding at least 1 public meeting each quarter of the fiscal year. In addition, special meetings may be called by the chairperson or any 2 board members upon 72 hours' written notice to each member. Three members of the board shall constitute a quorum, except when making determinations on applications for

casino licenses when 4 members shall constitute a quorum. Three votes shall be required in support of final determinations of the board on applications for casino licenses. The board shall keep a complete and accurate record of all its meetings and hearings. Upon order of the board, 1 of the board members or a hearing officer designated by the board may conduct any hearing provided for under this act or by the rules promulgated by the board and may recommend findings and decisions to the board. The board member or hearing officer conducting the hearing shall have all powers and rights regarding the conduct of hearings granted to the board under this act. The record made at the time of the hearing shall be reviewed by the board, or a majority of the board, and the findings and decision of the majority of the board shall constitute the order of the board in the case.

(j) Maintaining records which are separate and distinct from the records of any other state board. The records shall be available for public inspection subject to the limitations of this act, and shall accurately reflect all board proceedings.

(k) Reviewing the patterns of wagering and wins and losses by persons in casinos under this act and make recommendations to the governor and the legislature in a written annual report to the governor and the legislature and additional reports as the governor may request. The annual report shall include a statement of receipts and disbursements by the board, actions taken by the board, and any additional information and recommendations that the board considers appropriate or that the governor may request.

History: 1996, Initiated Law 1, Eff. Dec. 5, 1996;—Am. 1997, Act 69, Imd. Eff. July 17, 1997.

Compiler's note: In subsection (6), the phrase “nolo contendere” evidently should be “nolo contendere.”

Popular name: Proposal E

Administrative rules: R 432.1101 et seq. of the Michigan Administrative Code.